

**U.S. District Court
DISTRICT OF ARIZONA (Tucson Division)
CIVIL DOCKET FOR CASE #: 4:12-cv-00311-DCB-DTF**

Arnett v. Howard et al
Assigned to: Senior Judge David C Bury
Referred to: Magistrate Judge D Thomas Ferraro
Demand: \$368,000
Cause: 28:1331 Fed. Question: Breach of Contract

Date Filed: 04/24/2012
Date Terminated: 06/24/2013
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Federal Question

Plaintiff

James Arnett

represented by **James Arnett**
9288 N Monmouth Ct.
Tucson, AZ 85742
520-878-9779
PRO SE

V.

Defendant

Benjamin Snow Howard

represented by **Scott F Gibson**
Davis Miles McGuire Gardner PLLC
80 E Rio Salado Pkwy., Ste. 401
Tempe, AZ 85281
480-733-6800
Fax: 480-733-3748
Email: sgibson@davismiles.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Lifeline Media LLC
a Texas entity

represented by **Scott F Gibson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Nationwide Affordable Housing
a Texas corporation

represented by **Scott F Gibson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Ben Howard Trust
trustee of
Benjamin Snow Howard

represented by **Scott F Gibson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/24/2012	<u>1</u>	COMPLAINT. filed by James Arnett.(PAA) (Entered: 04/24/2012)
04/24/2012	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by James Arnett. (Attachments: # <u>1</u> Text of Proposed Order)(PAA) (Entered: 04/24/2012)
04/24/2012	<u>3</u>	This case has been assigned to the Honorable D Thomas Ferraro. All future pleadings or documents should bear the correct case number: 4:12-CV-00311-TUC-DTF. Magistrate Election form attached. (Attachments: # <u>1</u> Magistrate Form)(PAA) (Entered: 04/24/2012)
04/27/2012	<u>4</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis, without prepayment of costs or fees or the necessity of giving security. Plaintiff shall be responsible for service of the summons and complaint. Signed by Magistrate Judge D Thomas Ferraro on April 26, 2012.(BAR) (Entered: 04/27/2012)
06/06/2012	<u>5</u>	Ordered that show cause for failure to comply with LRCiv 3.8(a) before Judge Raner C Collins. Show Cause Hearing set for 6/25/2012 at 10:20 AM before Judge Raner C Collins. (Attachments: # <u>1</u> Consent Form, # <u>2</u> Instruction)(LMF) (Entered: 06/06/2012)
06/07/2012	<u>6</u>	MOTION for Service of Process by US Marshal Service by James Arnett. (BAR) (Entered: 06/07/2012)
06/18/2012	<u>7</u>	Party Elects Assignment of Case to District Judge Jurisdiction. This is a TEXT ENTRY ONLY. There is no PDF document associated with this entry. (LMF) (Entered: 06/20/2012)
06/20/2012	<u>8</u>	Minute Order: Pursuant to Local Rule 3.8(a), a request has been received for a random reassignment of this case to a District Judge. Case reassigned by random draw to David C Bury. All further pleadings should now list the following COMPLETE case number: 12-CV-00311-TUC-DCB. Magistrate Judge D Thomas Ferraro no longer assigned to case. This is a TEXT ENTRY ONLY. There is no PDF document associated with this entry. (LMF) (Entered: 06/20/2012)
06/27/2012	<u>9</u>	ORDERED this case is referred back to Magistrate Judge D Thomas Ferraro for all pretrial proceedings and Report and Recommendation. All future filings in this case shall be designated as follows: CV-12-311-TUC-DCB (DTF). Signed by Judge David C Bury on June 26, 2012. (BAR) (Entered: 06/27/2012)
06/29/2012	<u>10</u>	ORDER (Service Packet), IT IS ORDERED; The Clerk of Court must send Plaintiff a service packet including document number <u>1</u> the Complaint, document number <u>10</u> this Order, and both a summons and request for waiver form for Defendant Benjamin Snow Howard. Signed by Magistrate Judge D Thomas Ferraro on 06/29/2012. (KEP) (Entered: 06/29/2012)
06/29/2012	<u>11</u>	MOTION for Service of Process upon Defendant Howard by US Marshal Service filed by James Arnett. (BAR) (Entered: 07/02/2012)
07/20/2012	<u>13</u>	ORDERED that the Clerk of Court shall seal <u>12</u> Plaintiff's Memorandum filed by James Arnett and strike it from the record. Signed by Magistrate Judge D Thomas Ferraro on July 20, 2012. (BAR) (Entered: 07/20/2012)
08/21/2012	<u>14</u>	MOTION to Seal Document by James Arnett. (GCP) (Entered: 08/21/2012)
08/21/2012	<u>15</u>	SEALED LODGED Proposed Memorandum re: <u>14</u> MOTION to Seal Document. Document to be filed by Clerk if Motion to Seal is granted. Filed by James Arnett. (GCP) (Entered: 08/21/2012)
08/21/2012	<u>16</u>	MOTION for Alternative Service by James Arnett. (BAR) (Entered: 08/23/2012)
09/19/2012	<u>17</u>	SUMMONS Returned Executed by James Arnett. Benjamin Snow Howard served on 9/6/2012.

		(BAR) (Entered: 09/19/2012)
09/26/2012	<u>18</u>	MOTION to Dismiss Case <i>Motion to Dismiss &Memorandum in Support</i> by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 09/26/2012)
09/26/2012	<u>19</u>	Corporate Disclosure Statement by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 09/26/2012)
09/27/2012	<u>20</u>	ORDER denying as moot <u>14</u> Motion to Seal Document; denying <u>16</u> Motion for Alternative Service. Signed by Magistrate Judge D Thomas Ferraro on September 26, 2012.(BAR) (Entered: 09/27/2012)
09/27/2012	<u>21</u>	ORDERED that Plaintiff must file a response to Defendant's <u>18</u> MOTION to Dismiss, no later than October 25, 2012. Signed by Magistrate Judge D Thomas Ferraro on September 26, 2012. (BAR) (Entered: 09/27/2012)
09/27/2012	<u>22</u>	ORDERED that Defendant Benjamin Howard has until 10/8/2012 to show good cause, if any, in writing, why he should not be taxed the cost of personal service by the United States Marshal Service. Signed by Magistrate Judge D Thomas Ferraro on September 26, 2012. (BAR) (Entered: 09/27/2012)
10/15/2012	<u>23</u>	MOTION for Leave to Amend <u>1</u> Complaint by James Arnett. (BAR) (Entered: 10/16/2012)
10/15/2012	<u>24</u>	MOTION for Leave to File Prima Facie Evidence on Disc by James Arnett. (BAR) (Entered: 10/16/2012)
10/15/2012	<u>25</u>	RESPONSE to <u>18</u> MOTION to Dismiss Case filed by James Arnett. (BAR) (Entered: 10/16/2012)
10/25/2012	<u>26</u>	REPLY to Response to Motion re <u>18</u> MOTION to Dismiss Case <i>Motion to Dismiss &Memorandum in Support</i> filed by Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 10/25/2012)
10/25/2012	<u>27</u>	*RESPONSE to <u>23</u> Plaintiff's Motion for Leave of Court to Amend Complaint by Defendants Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) *Modified on 10/26/2012 to correct event type and link document. (CSL) (Entered: 10/25/2012)
10/25/2012	<u>28</u>	*RESPONSE to <u>24</u> MOTION for Leave to File Motion to File Prima Facie Evidence on Disc <i>and Motion to Strike Plaintiff's "Motion to File Prima Facie Evidence on Disc"</i> by Defendants Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) Modified on 10/26/2012 to correct event type. (CSL) Modified on 10/26/2012, EVENT CHANGED FROM OBJECTION TO MOTION TO STRIKE (BAR). (Entered: 10/25/2012)
11/02/2012	<u>29</u>	ORDERED that defendant Benjamin Howard shall pay \$98.75 to the US Marshal on or before December 3, 2012. Defendant Howard must pay by check or money order made payable to the US Marshal Service. The check or money order shall be delivered to the Clerk of the Court who will forward it to the Marshal Service. Signed by Judge David C Bury on November 2, 2012. (BAR) (Entered: 11/02/2012)
11/05/2012	<u>30</u>	*RESPONSE to Motion re <u>28</u> MOTION to Strike <u>24</u> MOTION for Leave to File Motion to File Prima Facie Evidence on Disc filed by James Arnett. (BAR) *Modified to correct the reference to related document on 11/7/2012 (CMAL). (Entered: 11/06/2012)
11/08/2012	<u>31</u>	REPLY to Response to Motion re <u>28</u> MOTION to Strike <i>Plaintiff's "Motion to File Prima Facie Evidence on Disc"</i> filed by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC,

		Nationwide Affordable Housing. (Gibson, Scott) (Entered: 11/08/2012)
11/15/2012	<u>32</u>	(Motion for Leave to File Sur-Reply in Opposition to Defendants' Motion to dismiss Reply) MOTION to Strike <u>26</u> Reply to Response to Motion by James Arnett. (BAR) (Entered: 11/19/2012)
11/26/2012	<u>33</u>	MOTION to Strike <u>32</u> MOTION to Strike <u>26</u> Reply to Response to Motion <i>Motion to Strike Plaintiff's "Motion for Leave to File Sur-Reply in Opposition to Defendants's Motion to Dismiss Reply" &Memorandum in Support</i> by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 11/26/2012)
12/20/2012	<u>34</u>	ORDER denying <u>28</u> Motion to Strike. Granting <u>23</u> Motion to Amend/Correct; Plaintiff shall file his amended complaint on or before January 18, 2013. Granting <u>24</u> Motion for Leave to File; may file exhibits to his amended pleading on a DVD, with a copy for the Court, the judge and Defendants. Signed by Magistrate Judge D Thomas Ferraro on 12/19/12.(SMBE) (Entered: 12/20/2012)
01/07/2013	<u>35</u>	FIRST AMENDED COMPLAINT against Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing, filed by James Arnett.(BAR) (Entered: 01/09/2013)
01/07/2013	<u>36</u>	NOTICE of filing Evidence on DVD by James Arnett. (BAR) (Entered: 01/09/2013)
01/15/2013	<u>37</u>	MOTION to Dismiss for Failure to State a Claim , MOTION to Dismiss Case <i>Motion to Dismiss Plaintiff's First Amended Complaint &Memorandum in Support</i> by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 01/15/2013)
01/18/2013	<u>38</u>	ORDER re <u>37</u> MOTION to Dismiss for Failure to State a Claim, MOTION to Dismiss Case. Ordered Plaintiff must file a response to Defendants' Motion to Dismiss no later than 2/14/2013. Signed by Magistrate Judge D Thomas Ferraro on 1/18/2013. (BAR) (Entered: 01/18/2013)
02/01/2013	<u>39</u>	MOTION to Consolidate Cases this case with CV 13-0058-TUC-DCB by James Arnett. (LMF) (Entered: 02/04/2013)
02/01/2013	<u>40</u>	RESPONSE to Motion re <u>37</u> MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss Case <i>Motion to Dismiss Plaintiff's First Amended Complaint &Memorandum in Support</i> filed by James Arnett. (LMF) (Entered: 02/04/2013)
02/11/2013	<u>41</u>	REPLY to Response to Motion re <u>37</u> MOTION to Dismiss for Failure to State a Claim MOTION to Dismiss Case <i>Motion to Dismiss Plaintiff's First Amended Complaint &Memorandum in Support</i> filed by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 02/11/2013)
02/19/2013	<u>42</u>	RESPONSE in Opposition re <u>39</u> MOTION to Consolidate Cases <i>Opposition to Motion to Join Cases</i> filed by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 02/19/2013)
02/22/2013	<u>43</u>	REPLY to Response to Motion re <u>39</u> MOTION to Consolidate Cases filed by James Arnett. (BAR) (Entered: 02/25/2013)
02/22/2013	<u>44</u>	MOTION for Admonishing Practive by James Arnett. (BAR) (Entered: 02/25/2013)
03/11/2013	<u>45</u>	RESPONSE in Opposition re <u>44</u> MOTION for Admonishing Practive filed by Ben Howard Trust, Benjamin Snow Howard, Lifeline Media LLC, Nationwide Affordable Housing. (Gibson, Scott) (Entered: 03/11/2013)
03/18/2013	<u>46</u>	

		REPLY to Response to Motion re <u>44</u> MOTION for Admonishing Practive filed by James Arnett. (BAR) (Entered: 03/19/2013)
05/29/2013	<u>47</u>	REPORT AND RECOMMENDATION: Magistrate Judge recommends the District Court deny defendants' <u>37</u> MOTION to Dismiss for Failure to State a Claim and grant defendants' alternative motion seeking a transfer to the District of Utah. Any party may serve and file written objections within fourteen days of being served with a copy of the Report and Recommendation. Signed by Magistrate Judge D Thomas Ferraro on 5/28/2013. (BAR) (Entered: 05/29/2013)
05/29/2013	<u>48</u>	ORDER denying <u>32</u> Motion to File Sur-Reply; denying <u>33</u> Motion to Strike the Sur-Reply; denying <u>44</u> Motion for Admonishing Practice. Signed by Magistrate Judge D Thomas Ferraro on 5/28/2013.(BAR) (Entered: 05/29/2013)
06/24/2013	<u>49</u>	ORDERED that defendants' <u>37</u> Motion to Dismiss for Failure to State a Claim/ Motion to Dismiss is denied in part and granted in part. The Clerk's Office is directed to transfer this action to Utah in accordance with the Court's order. Further ordered denying <u>39</u> Motion to Consolidate Cases. It is ordered that Magistrate Judge Ferraro's <u>47</u> Report and Recommendation is accepted and adopted by this Court as the findings of fact and conclusions of law. Signed by Senior Judge David C Bury on 6/24/2013.(BAR) (Entered: 06/24/2013)